

Application No. 09/680,771
Amendment dated May 4, 2004
Reply to the Office Action of December 5, 2003

REMARKS

Applicants have cancelled claims 1-6 and added new claims 7-32. These new claims correlate closely to the claims the Examiner allowed in U.S. Patent Nos. 6,625,583 B1 and 6,505,175 B1, both of which are related to the present application. Claims 7-32 are now pending in this application.

In the Office Action dated December 5, 2003, the Examiner rejected claims 5 and 6 under 35 U.S.C. 101 as being directed to non-statutory subject matter, claims 1-6 under 35 U.S.C. 112 as being indefinite, and claims 1-6 under 35 U.S.C. 102(b) as being anticipated by Patterson, Jr. et al. (U.S. Patent No. 5,774,877).

The undersigned has reviewed the December 5, 2003, Office Action and respectfully traverses all rejections for the reasons set forth herein. Support for the new claims is found throughout the specification and in the originally filed claims, and no new matter has been added. The undersigned respectfully requests that all pending claims, as amended, be allowed.

A. 35 U.S.C. 101

The Examiner has rejected claims 5 and 6 under 35 U.S.C. 101 as being directed to non-statutory subject matter. Applicants have cancelled claims 5 and 6, and added new claims 7-32, thus addressing the Examiner's rejection, and as such, respectfully traverse the rejection and request allowance of claims 7-32.

In the Office Action of December 5, 2003, the Examiner stated that claims 5 and 6 "recite non-functional data structure which is inoperative and therefore lacks utility" because the claims recite a communication protocol with "no other element recited in cooperation with the protocol which would impart any functionality."

Applicants have cancelled claims 5 and 6, and added, in part, independent claims 30 and 31, which recite a computer executable software code stored on a computer readable medium operative with a processor for causing computer apparatus to perform various novel actions. As such, Applicants respectfully submit that new claims 7-32 resolve the Examiner's rejection.

Application No. 09/680,771
Amendment dated May 4, 2004
Reply to the Office Action of December 5, 2003

B. 35 U.S.C. 112

The Examiner has rejected claims 1-6 under 35 U.S.C. 112 as being indefinite. Applicants have cancelled claims 1-6, and added new claims 7-32, thus addressing the Examiner's rejection, and as such, respectfully traverse the rejection and request allowance of claims 7-32.

In the Office Action of December 5, 2003, the Examiner stated that claims 1-6 "fail[] to particularly point out and distinctly claim the subject matter which applicant regards as the invention[,] . . . fail[] to point out what is included or excluded by the claim language[,] . . . [and are] omnibus type claim[s]." The Examiner further stated that "[t]he structure which goes to make up the device must be clearly and positively specified[, t]he process steps must be organized and correlated in such a manner as to present a complete operative method or apparatus[,] . . . [and t]he claims must be written in a format that conforms to the format adopted for the US patent applications as set forth in . . . 37 CFR 1.75[.]"

Applicants have cancelled claims 1-6, and added claims 7-32, which disclose methods, systems, and software code in accordance with 37 CFR 1.75 and in a non-omnibus fashion which particularly and distinctly points out the subject matter of the invention. As such, Applicants respectfully submit that new claims 7-32 resolve the Examiner's indefiniteness rejection.

C. 35 U.S.C. 102(b)

The Examiner has rejected claims 1-6 under 35 U.S.C. 102(b) as being anticipated by Patterson, Jr. et al. (U.S. Patent No. 5,774,877). Because Applicants have cancelled claims 1-6, and submitted new claims 7-32, Applicants respectfully submit that the Examiner's anticipation rejection is now moot.

Application No. 09/680,771
Amendment dated May 4, 2004
Reply to the Office Action of December 5, 2003

CONCLUSION

For the reasons set forth above, allowance of this application is courteously urged. If there remains any question regarding the present application or any of the cited references, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is cordially requested to contact the undersigned at (212) 878-8341 in order for the undersigned to arrange for an interview with the Examiner.

Respectfully submitted,

Date: May 4, 2004



Charles S. Kwalwasser
Reg. No. 47,728

Clifford Chance US LLP
200 Park Avenue
New York, NY 10166-0153
Telephone: (212) 878-8341